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PART – I

Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA

NIRVACHAN SADAN, PLOT NO. 2, SECTOR 17

PANCHKULA

Order

The 12th February, 2018

No. SEC/3ME/2018/615.—

Subject :- Disqualification of Smt.Chandni, contesting candidate from Ward No. 17 of Municipal Council, Rewari.

The General Election of Municipal Council, Rewari was held on 10.02.2013 and the result of the elected candidates was declared on the same day.

2. Section 13E of the Haryana Municipal Act, 1973, provides that every candidate at an election shall, either himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him/her or by his election agent from the date of filing of nomination papers to the date of declaration of the result thereof, both dates inclusive. The account shall contain such particulars, as may be notified by the State Election Commission in this behalf. The total of the said expenditure shall not exceed such amount as may be notified by the State Election Commission from time to time.

3. State Election Commission issued Notification No.SEC/4ME/2006/9706, dated 19.12.2006 in exercise of powers conferred inter alia under Section 13D and 13F of the Act and made the Haryana Municipal Election Expenditure (Maintenance and Submission of Accounts) Order, 2006. Clause 5(6) of the Order provide that every contesting candidate or his election agent shall lodge account of election expenditure within thirty days from the date of declaration of election result with the Deputy Commissioner or an officer authorized by the State Election Commission.

4. Section 13D of the Haryana Municipal Act, 1973 read with Section 10 A of the Representation of People Act, 1951 further provides that if the Election Commission is satisfied that a person –

(a) has failed to lodge an account of election expenses, within the time and in the manner required by or under this Act, and

(b) has no good reason or justification for the failure

the Election Commission shall, by order published in the Official Gazettee, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

5. In pursuance of the above provisions, the State Election Commission, Haryana vide its notification No. SEC/3ME/2011/2813, dated 05.09.2011 in exercise of powers vested under clause (i) Article 243 ZA of the Constitution of India, Sub-section 3 of Section 13E of the Haryana Municipal Act, 1973 had prescribed the limit of expenditure of Rs. 75,000/- that may be incurred by the contesting candidate or his authorized agent in connection with election of Municipal Council, Rewari and account of election expenses shall be filed/lodged with the Deputy Commissioner or any other officer prescribed by the Commission within 30 days from the date of declaration of the result of election.

6. The State Election Commissioner, Haryana in exercise of powers contained under Section 3B of the Haryana Municipal Act, 1973 authorized District Attorney, State Election Commission, Haryana vide order No.SEC/1ME/2017/2017, dated 01.12.2017 to decide the cases of disqualification of the candidates, who failed to lodge their account of election expenses.

7. As reported by the Deputy Commissioner, Rewari, the above mentioned candidate had contested the election from Ward No.17 of Municipal Council, Rewari but failed to submit her election expenditure account within the prescribed time or thereafter. The Commission had served a show cause notice upon her to explain as to why she should not be disqualified on account of non submission of election expenditure account within the period. She neither submitted his election expenditure statement nor responded to the show cause notice. I, had given her personal hearing on 30.01.2018 in the PWD Rest House, Rewari in the interest of natural justice vide letter No.SEC/3ME/2018/20, dated 09.01.2018. Sh.Sohan, Building Inspector of the Municipal Council, Rewari, represented the Deputy Commissioner Rewari. The above said candidate appeared for personal hearing and submitted the following :-

“She stated that she was not able to deposit the expenditure register earlier due to some reason and today she is depositing the original expenditure register.”

8. After personal hearing, the order was announced.

9. On perusal of record of the case and after hearing of the candidate, I am satisfied that the original copy of account of election expenses submitted during the hearing clearly proves that the account was not lodged within thirty days from the date of declaration of election result as prescribed under mandatory Clause 5(6) of the Haryana Municipal Election Expenditure (Maintenance and Submission of Accounts) Order, 2006. Original copy of account only proves the compliance of Section 13 (E) and not of Clause 5(6) of the ibid Order. The provision of Section 13(D) and Clause 5(6) of the Order are mandatory and the time limit of thirty days from the date of declaration of election result cannot be condoned without good reason or justification for the failure and the candidate has merely stated that due to some reason she was not able to deposit expenditure register within prescribed time. She is therefore, liable for disqualification under Section 13(D) for not lodging the account of election expenses within thirty days from the date of declaration of election result without good reason or justification. Hence I, Anil Kumar Aggarwal, District Attorney, State Election Commission, Haryana, under Section 13D of the Haryana Municipal Act, 1973 read with Clause 5(6) of the Haryana Municipal Election Expenditure (Maintenance and Submission of Accounts) Order, 2006 and Section 10 A of the Representation of People Act, 1951 hereby order that **Smt.Chandni** be disqualified for being chosen as, and for being a member of Municipality for a period of three years from the date of this order as they have failed to lodge the account of election expenses within thirty days from the date of declaration of election result without good reason and justification.

10. The office is directed to send a copy of this order to the candidate concerned through Deputy Commissioner, Rewari immediately.

Panchkula:
The 9th February, 2018.

ANIL KUMAR AGGARWAL,
District Attorney,
State Election Commissioner, Haryana.